

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 3C Independent Special Districts

SPONSOR(S): Fine

TIED BILLS: IDEN./SIM. BILLS: SB 4-C

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee	14 Y, 7 N	Darden	Williamson

SUMMARY ANALYSIS

Special districts provide a variety of local services and are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law. There are two types of special districts: independent special districts and dependent special districts. Special districts are governed generally by the Uniform Special District Accountability Act, which centralizes provisions governing special districts and applies to the formation, governance, administration, supervision, merger, and dissolution of special districts, unless otherwise expressly provided in law.

Unlike counties and municipalities, special districts do not possess “home rule” powers and have only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.

The bill dissolves all independent special districts created by special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by a special act or general law after that date. The bill provides that dissolution of the affected districts will occur on June 1, 2023, but that such special districts may be re-established pursuant to the requirements and limitations of ch.189, F.S., on or after that date.

The bill does not appear to have a fiscal impact of state government, but will eliminate the revenues and expenditures of certain special districts. See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.¹ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.² A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.³ Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.⁴ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.⁵

A “dependent special district” is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district’s governing body are removable at will by the governing body of a single county or municipality, or the district’s budget is subject to the approval of the governing body of a single county or municipality.⁶ An “independent special district” is any district that is not a dependent special district.⁷

According to the Department of Economic Opportunity’s (DEO) Special District Accountability Program Official List of Special Districts, there are 1,843 special districts, 1,227 independent special districts and 616 dependent districts.⁸

Special districts are governed generally by ch. 189, F.S., the Uniform Special District Accountability Act (Act).⁹ The Act, which centralizes provisions governing special districts, applies to the formation,¹⁰ governance,¹¹ administration,¹² supervision,¹³ merger,¹⁴ and dissolution¹⁵ of special districts, unless otherwise expressly provided in law.¹⁶

¹ See *Halifax Hosp. Med. Ctr. v. State*, 278 So. 3d 545, 547 (Fla. 2019).

² See ss. 189.031(3), 189.02(1), and 190.005(1), F.S. See, generally, s. 189.012(6), F.S.

³ *Halifax Hosp. Med. Ctr.*, 278 So. 3d at 547.

⁴ 2020–2022 *Local Gov’t Formation Manual*, p. 64, available at

<https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?Committeed=3117> (last visited Apr. 19, 2022).

⁵ The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. See, e.g., ch. 2017-220, s. 6(6) of s. 3, Laws of Fla. (Sunbridge Stewardship District). See also, e.g., ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).

⁶ S. 189.012(2), F.S.

⁷ S. 189.012(3), F.S.

⁸ Dept. of Economic Opportunity, Special Dist. Accountability Program, “Official List of Special Districts,” at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Apr. 19, 2022).

⁹ S. 189.01, F.S., but see chs. 190 (community development districts), 191 (independent special fire control districts), 298 (water control districts), 388 (mosquito control districts), and 582, F.S. (soil and water conservation districts).

¹⁰ See ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

¹¹ See s. 189.0311, F.S. (charter requirements for independent special districts).

¹² See s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹³ See s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

¹⁴ Ss. 189.071 and 189.074, F.S.

¹⁵ Ss. 189.071 and 189.072, F.S.

¹⁶ See, e.g., s. 190.004, F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

Local Government Powers

The Florida Constitution grants counties and municipalities broad “home rule” authority that did not exist prior to the ratification of the 1968 Constitution.¹⁷ Non-charter county governments may exercise those powers of self-government that are provided by general or special law.¹⁸ Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.¹⁹ Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.²⁰

Special districts do not possess “home rule” powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, it is not mandatory for a special act to provide an independent special district with ad valorem taxing authority.²¹

Codification

In 1997, the Legislature passed a comprehensive series of reforms relating to local government oversight that included a provision requiring each special district to codify its special acts into a single act for reenactment by the Legislature no later than December 1, 2001.²² Subsequent legislation extended the deadline for codification to December 1, 2004, and stated the Legislature may adopt a schedule for individual districts to codify their acts.²³

Independent Special District Dissolution

An independent special district may be dissolved in one of the four following ways:

- Voluntary dissolution by a majority vote plus one of the district’s board;²⁴
- For districts created by special act, the passage of a special act dissolving the district, subject to approval by a majority vote of the residents or landowners of the district;²⁵
- For districts created by a local government, using a referendum or other procedure that was used to create the district;²⁶ or
- For districts that have been declared inactive by DEO, by special act or ordinance without a referendum.²⁷

Unless otherwise provided by law or ordinance, all assets and liabilities of a dissolved independent special district are transferred to the local general-purpose government having jurisdiction over the territory of the district.²⁸

¹⁷ See Art. VIII, s. 5, Fla. Const. (1885) (“powers, duties[,] and compensation of county commissioners shall be prescribed by law”) and Art. VIII, s. 8, Fla. Const. (1885) (“The Legislature shall... prescribe [municipal] jurisdiction and powers[.]” See also *City of Trenton v. State of New Jersey*, 262 U.S. 182, 186 (1923) (“In the absence of state constitutional provisions safeguarding it to them, municipalities have no inherent right of self-government which is beyond the legislative control of the state.”), *Bowden v. Ricker*, 70 Fla. 154 (Fla. 1915) (“Under the provision of s. 5 of art. 8 of the [1885] Constitution that powers and duties of county commissioners ‘shal l be prescribed by law,’ the authority of such officials is only such as may be conferred by statutory regulations.”)

¹⁸ Art. VIII, s. 1(f), Fla. Const.

¹⁹ Art. VIII, s. 1(g), Fla. Const.

²⁰ Art. VIII, s. 2(b); see also s. 166.021(1), F.S.

²¹ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

²² Ch. 97-255, s. 24, Laws of Fla., now codified as s. 189.019, F.S.

²³ Ch. 98-320, s. 3, Laws of Fla.

²⁴ S. 189.072(1), F.S. If the district was created by special act, dissolution also requires a special act of the Legislature to take effect.

²⁵ S. 189.072(2), F.S.

²⁶ S. 189.072(3), F.S.

²⁷ S. 189.072(4), F.S.

²⁸ Ss. 189.072(4) and 189.076(2), F.S.

Effect of Proposed Changes

Notwithstanding s. 189.072(2), F.S., the bill dissolves all independent special districts created by special act prior to the ratification of the Florida Constitution on November 5, 1968, if those districts have not been reestablished, re-ratified, or otherwise reconstituted by a special act or general law after that date. The bill provides that dissolution of the affected districts will occur on June 1, 2023, but that such special districts may be re-established pursuant to the requirements and limitations of ch. 189, F.S., on or after that date.

According to DEO's Special District Accountability Program Official List of Special Districts, there are 132 active independent special districts that were created by special act before November 5, 1968.²⁹ Of those 132 districts, 126 appear to operate under a charter that was reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968. The following six districts appear to operate pursuant to a charter, which predates the 1968 Florida Constitution and was not reestablished, re-ratified, or otherwise reconstituted by a special act or general law after November 5, 1968:

- Bradford County Development Authority, Bradford County.
- Sunshine Water Control District, Broward County.³⁰
- Eastpoint Water and Sewer District, Franklin County.
- Hamilton County Development Authority, Hamilton County.
- Marion County Law Library, Marion County.
- Reedy Creek Improvement District, Orange and Osceola Counties.

B. SECTION DIRECTORY:

Section 1: Amends s. 189.0311, F.S., dissolving certain independent special districts.

Section 2: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

²⁹ Dept. of Economic Opportunity, Special Dist. Accountability Program, "Official List of Special Districts," at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (last visited Apr. 19, 2022).

³⁰ The charter of the Sunshine Drainage District was amended by ch. 2021-255, Laws of Fla., subject to voter approval in a referendum to be held during the 2022 General Election on November 8, 2022.

D. FISCAL COMMENTS:

The bill will eliminate the revenues and expenditures of special districts impacted by the bill; however, any assets or liabilities will be transferred to the local general-purpose government or governments that have jurisdiction over the boundaries of the district.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The Legislature may adopt general laws that operate “universally throughout the state, uniformly upon subjects as they may exist throughout the state, or uniformly within a permissible classification.”³¹ The Florida Supreme Court has recognized that the Legislature has wide discretion in establishing statutory classification schemes.³² A general law may contain a classification scheme if that scheme is reasonably related to the purpose of the legislation.³³ A statute, however, may be found invalid if the descriptive scheme is “employed merely for identification rather than classification.”³⁴

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

³¹ *Dep't of Bus. Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155 (Fla. 1989) (citing *State ex rel. Landis v. Harris*, 120 Fla. 555 (Fla. 1934)).

³² *Shelton v. Reeder*, 121 So. 2d 145 (Fla. 1960), *Dep't of Bus. Regulation v. Classic Mile, Inc.*, 541 So. 2d 1155 (Fla. 1989). See also *Anderson v. Bd. of Pub. Instruction for Hillsborough Cnty.*, 102 Fla. 695 (Fla. 1931) (quoting *Hiers v. Mitchell*, 95 Fla. 345 (Fla. 1928) (“When the classification in such a law is called in question, if any state of facts reasonably can be conceived that would sustain it, the existence of that state of facts at the time the law was enacted must be assumed.”)).

³³ Art. III, s. 11(b), Fla. Const. *Compare Schrader v. Fla. Keys Aqueduct Auth.*, 840 So.2d 1050 (Fla. 2003) (statute authorizing Monroe County to pass wastewater laws more restrictive than general law was a valid general law since it serves to protect a natural resource of statewide importance), and *Metropolitan Dade Cnty v. Golden Nugget Grp.*, 448 So. 2d 515, 520 (Fla. 3rd DCA 1984), *aff'd* 464 So. 2d 535 (Fla. 1985) (finding that where the purpose of a law applicable only to those counties listed in s. 125.011(1), F.S., was related to the general tourism industry, the classification was sufficient for the court to find the law was not an improper special law), *with State ex rel. Cotterill v. Bessenger*, 133 So.2d 409 (Fla. 1961) (statute regulating nudist colonies only in counties having a population of 36,700 to 38,000 was not based on any valid classification with reasonable relationship to the law’s purpose and subject matter).

³⁴ *City of Miami v. McGrath*, 824 So. 2d 143, 150 (Fla. 2002), citing *West Flagler Kennel Club, Inc. v. Fla. State Racing Comm'n*, 153 So. 2d 5 (Fla. 1963).